

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

V.

TEXAS INSTRUMENTS, INC.

Defendants.

BLUE SPIKE, LLC,

Plaintiff,

V.

AUDIBLE MAGIC CORPORATION,
ET AL.

Defendants.

Civil Action No. 6:12-CV-499-LED

(LEAD CASE)

JURY TRIAL DEMANDED

Civil Action No. 6:12-CV-576-LED

(CONSOLIDATED WITH 6:12-CV-499)

JURY TRIAL DEMANDED

**DECLARATION OF ORION ARMON IN SUPPORT OF FACEBOOK’S
REPLY IN SUPPORT OF ITS MOTION TO DISMISS
OR SEVER AND TRANSFER VENUE**

I, Orion Armon, hereby declare:

1. I am a partner at Cooley LLP, attorneys of record for Defendant Facebook, Inc. I provide this declaration in support of Facebook's motion to dismiss the Facebook Technology from this case, or, in the alternative, sever the case against Facebook's Technology and transfer the severed action to the United States District Court for the Northern District of California. I declare that the following statements are true to the best of my knowledge, information, and

belief, formed after a reasonable inquiry under the circumstances. If called upon to testify, I could and would competently testify thereto.

2. On July 15, 2014, I spoke with Randall Garteiser, counsel of record for Plaintiff Blue Spike, LLC. Garteiser told me that Blue Spike agreed that it could not join the Facebook Technology with Facebook's use of Audible Magic Technology under the America Invents Act, 35 U.S.C. § 299. Garteiser said that Blue Spike would send a draft stipulation acknowledging that Facebook Technology was out of the case to Facebook's counsel for review.

3. Facebook received the draft stipulation on July 17, 2014, the day Blue Spike's response to this motion was due.

4. I notified Blue Spike that Facebook could not agree to the stipulation as attached and requested that Blue Spike send a new version that did not condition the dismissal of the Facebook Technology from this case on the new case remaining on the same schedule.

5. Randall Garteiser responded that Facebook's proposal was "fair" and indicated that Blue Spike planned to file a new complaint against Facebook.

6. Attached hereto as **Exhibit A** is a true and correct copy of a July 17, 2014 email chain between Orion Armon and Randall Garteiser.

7. On July 17, 2014, Blue Spike filed a new complaint against Facebook.

8. Attached hereto as **Exhibit B** is a true and correct copy of Blue Spike LLC's complaint against Facebook, Inc., in case No. 6:14-cv-00618 (E.D. Tex. Jul. 17, 2014).

9. Attached hereto as **Exhibit C** is a true and correct copy of a July 17, 2014 email from Janna Fischer to Randall Garteiser asking Blue Spike to send a draft of the agreed-on stipulation.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Broomfield, Colorado, on this 28th day of July, 2014.

s/ Orion Armon
Orion Armon

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